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10/561,076

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Stephen Mark Brown

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EXAMINER

CUMBESS, YOLANDA R

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3651

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/561,076	<b>Applicant(s)</b> BROWN, STEPHEN MARK	
	<b>Examiner</b> YOLANDA CUMBESS	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 53 is objected to because of the following informalities: Claim 53 recites "a motion control surface according to claim 49, wherein the device is connectable ...". It is apparent that Applicant intends the claim to read, "A motion control device according to claim 49, wherein the device is connectable ... ." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27-28, 30-35, and 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw et al (US PG Pub 2003/0019714). Relative to claims 27 and 28, Shaw discloses: a roller assembly (20)(Fig. 1) for use in live carton storage, the assembly comprising:

- a. at least one roller (24)(Fig. 1) rotatable about a roller axle (50, 52), with the axle of each roller extending outwardly beyond the longitudinal ends of the roller (Fig. 4);
- b. a roller support comprising a base portion (26)(Fig. 1) and two wall portions (40)(Fig. 1), the two wall portions being connected to and upstanding from the base portion (26)(Fig. 1), and

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- c. each wall portion (40) of the roller support comprising a slot (44)(Fig. 3) for receiving a respective end of the axle of each roller for rotatably supporting the roller therebetween;
- d. the axle ends (50,52) of each roller being receivable in respective pairs of slots provided in the upstanding wall portions, with each slot pair being longitudinally spaced along the wall portions (Fig. 1);
- e. a means (46) for retaining the ends of each roller axle in the respective receiving slots (Para. 24, lines 1-11); and
- f. a roller retainer (38) for retaining each of the rollers in its desired position relative to the wall portions (40), the retainer comprising two generally parallel and longitudinally extending axle abutment surfaces (see near Ref. 36)(Fig. 2), for locating axially slightly beyond each end of the axle rollers when fitted in the slots provided in the wall portions, the axle abutment surfaces forming part of a frame (36) that is connectable to the wall portions (40) of the roller support (Fig. 2).
- g. a roller assembly (20) for use in live carton storage, the assembly comprising: at least one roller rotatable (24) about a roller axle (50,52), with the axle of each roller extending outwardly beyond the longitudinal ends of the roller (Fig. 3);
- h. a roller support comprising a base portion (26) and two wall portions (40), the two wall portions being connected to and upstanding from the base portion (Fig. 1), and each wall portion of the roller support comprising a slot (44) for receiving a respective end of the axle (50, 52) of each roller for rotatably supporting the roller

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(24) there between; and a means (46) for retaining the ends of each roller axle in the respective receiving slots.

- i. wherein the base portion (26) and side portions (40) define a pair of longitudinally extending and generally L-shaped members (Fig. 1), which are orientated parallel to one another (Fig. 1).
- j. comprising a plurality of rollers (24), with each roller orientated generally transversely relative to the longitudinally extending base (26) and wall portions (40) (Fig. 1).
- k. wherein the generally transversely orientated rollers (24) are spaced longitudinally along the wall portions of the roller support (Fig. 3).
- l. wherein the rollers (24) are spaced equidistantly along the roller support (Fig. 3).
- m. wherein the axle ends (50, 52) of each roller are receivable in respective pairs of slots (44) provided in the upstanding wall portions (40), with each slot pair being longitudinally spaced along the wall portions (Fig. 3).
- n. wherein each roller (24) is rotatable about a respective roller axle (50, 52).
- o. a roller assembly comprising a roller retainer (38) for retaining each of the rollers in its desired position relative to the wall portions (Fig. 2-3).
- p. wherein the retainer (38) comprises two parallel and longitudinally extending axle abutment surfaces (see near Ref. 36), which are configured to locate axially slightly beyond each end of the axle rollers when fitted in the slots provided in the wall portions (Fig. 2-3).

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- q. wherein the axle abutment surfaces form part of a frame (22) that is connectable to the wall portions of the roller support (Fig. 2-3).
- r. wherein an axle (50, 52) is fixed to each roller (24), such that axial displacement of the rollers and axles within the assembly is limited by the roller ends abutting the inside surfaces of the wall portions (40)(Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 36, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw as applied to claims 28, 31, and 34 above, and further in view of Harris et al (US Patent No. 1,881,184). Relative to claims 29, 36, and 43, Shaw discloses almost all claim limitations including axle locating lugs (73) for locating the frame (22) relative to each of the axles. Shaw does not expressly disclose: wherein the base portion and upstanding wall portions define a longitudinally extending channel having a generally U- shape; wherein each slot pair extends downwardly from the upstanding edge of each wall portion at an inclined angle; wherein the frame comprises channels for attaching the frame over the upper edges of the wall portions.

Harris teaches: wherein the base portion (10a)(Fig. 4) and upstanding wall portions (14a) define a longitudinally extending channel having a generally U- shape (Page. 1, lines 69-75)(Fig. 4); wherein each slot pair (16) extends downwardly from the upstanding edge of each wall portion at an inclined angle (Fig. 4) (Page 1, lines 71-75); and wherein the frame comprises channels (18a) for attaching the frame over the upper edges of the wall portions so that the slots are as an improved mode of mounting to anchor rail sections and to prevent rollers from becoming dislodged (Page 1, lines 60-90). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Shaw with the U-shaped channels and angled slots as taught in Harris to anchor rail sections and to prevent rollers from becoming dislodged.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw as applied to claims 28, and 31 above, and further in view of Gaetano (Us Patent No. 4,274,625). Shaw discloses all claim limitations, but does not expressly disclose: wherein two or more rollers share a common roller axle. Gaetano discloses wherein two or more rollers (90, 92)(Fig. 6) share a common roller axle (84) so that the rollers are individually rotatable to allow the each portion of the load to control the rolling of the corresponding rollers thereunder (Col. 4, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Shaw with two or more rollers sharing a common axle, as taught by Gaetano, so that the rollers are individually rotatable to allow each portion of the load to control the rolling of the corresponding rollers thereunder.

Claims 44-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw, as applied to claim 28 above, and further in view of Sloan (US Patent No. 6,230,908). Relative to claims 44-45, Shaw discloses all claim limitations, but does not expressly disclose comprising a motion control device, wherein the motion control device has at least one object contact surface for impeding the motion of an object traveling over the at least one roller of the roller assembly, wherein the motion control device is pivotally connectable to a roller support of the assembly; and wherein the motion control device is mountable to the roller assembly in any one of a plurality of possible orientations, thereby providing the potential of being able to be used for more than one specific use.

Sloan teaches a motion control device (26)(Fig. 1), wherein the motion control device has at least one object contact surface (44) for impeding the motion of an object traveling over the at least one roller of the roller assembly (24), wherein the motion control device (26) is pivotally connectable to a roller support of the assembly (Col. 3, lines 25-30); and wherein the motion control device is mountable to the roller assembly in any one of a plurality of possible orientations (Fig. 1-3)(Col. 3, lines 50-56), thereby providing the potential of being able to be used for more than one specific use to stop the travel of containers in a manner depending on the application of the device (Col. 3, lines 51-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Shaw with wherein the motion control device has at least one object contact surface (44) for impeding the motion of an object traveling over the at least one



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roller of the roller assembly (24), wherein the motion control device (26) is pivotally connectable to a roller support of the assembly (Col. 3, lines 25-30); and wherein the motion control device is mountable to the roller assembly in any one of a plurality of possible orientations (Fig. 1-3)(Col. 3, lines 50-56), thereby providing the potential of being able to be used for more than one specific use, as taught by Sloan, to stop the travel of containers in a manner depending on the application of the device.

Relative to claim 46, Shaw in view of Sloan discloses a roller assembly, wherein the motion control device (26) is connectable to the roller support such that an object contact surface is orientated generally flush (Fig. 2) with a plane defined by the points of contact between an object and the rollers, for locking a roller support end cap in position on the roller support (Fig. 2)(Col. 3, lines 25-31).

Relative to claim 47, Shaw in view of Sloan discloses, wherein the motion control device (26) is connectable to the roller support such that an object contact surface is orientated substantially perpendicularly (Fig. 1) relative to the plane defined by the points of contact between an object and the rollers, such that the motion control device acts as an end stop preventing further motion of containers across the at least one roller (Col. 3, lines 31-40).

Relative to claim 48, Shaw in view of Sloan discloses wherein the motion control device (26) is connectable to the roller support such that an object contact surface is

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orientated at an angle between parallel and perpendicular (Fig. 5) to the plane defined by the points of contact between an object and the rollers, in order to slow or otherwise arrest the movement of any containers passing across the at least one roller (Col. 3, lines 50-56).

Relative to claim 49, Shaw in view of Sloan discloses: a motion control device (26) for a roller assembly, wherein the motion control device (26) is pivotally connectable to a roller support of a roller assembly, and comprises at least one contact surface (44) for impeding the motion of an object traveling over the rollers of the roller assembly (Fig. 1-3).

Relative to claim 50, Shaw in view of Sloan discloses: a motion control device (26) wherein device is mountable to a roller assembly in any one of a plurality of possible orientations, thereby providing the potential of being able to be used for more than one specific use (Fig. 1-3)(Col. 3, lines 50-56).

Relative to claim 51, Shaw in view of Sloan discloses: motion control device (26), wherein the device is connectable to a roller support such that a contact surface (44) is orientated generally flush (Fig. 2) with a plane defined by the points of contact between an object and the rollers, for locking a roller support end cap in position on the roller support (Col. 3, lines 31-40).

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Relative to claim 52, Shaw in view of Sloan discloses: a motion control device (26), wherein the device is connectable to a roller support such that a contact surface (44) is orientated substantially perpendicularly (Fig. 1) relative to a plane defined by the points of contact between an object and the rollers, for acting as an end stop preventing further motion of containers across the at least one roller (Col. 3, lines 31-40).

Relative to claim 53, Shaw in view of Sloan discloses: a motion control device (26), wherein the device is connectable to a roller support such that a contact surface (44) is orientated at an angle between parallel and perpendicular with a plane defined by the points of contact between an object and the rollers, for slowing or otherwise arresting the movement of any containers passing across the at least one roller (Col. 3, lines 50-56).

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### ***Allowable Subject Matter***

Claim 37 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOLANDA CUMBESS whose telephone number is (571)270-5527. The examiner can normally be reached on MON-THUR 9AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GENE CRAWFORD can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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